

FILED

AUG 14 2012

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy ClerkIN AND FOR THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

1.) DENISE OWENS,)
)
 Plaintiff,)
)
 v.)
)
 2.) GUARANTEE TRUST)
 LIFE INSURANCE COMPANY,)
)
 Defendant.)

Case No. **CIV 12 - 345 - RAW**
Civil Action No. CJ-2012-170
(Pittsburg County State District Court)

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW, Defendant, by and through its counsel of record, Brandon S. Nichols, of Brandon S. Nichols, P.C., of Oklahoma City, Oklahoma, and gives Notice that it here removed from the District Court of Pittsburg County, State of Oklahoma. In support of this Notice of Removal, Defendant states as follows:

1. On or about July 3, 2012, Plaintiff filed her Petition in the District Court of Pittsburg County, Oklahoma. On or about the 16th day of July, 2012, service was received by defendant's service agent. Therefore, this Notice of Removal is timely filed. (See 28 U.S.C. Section 1446(b).
2. Plaintiff's Petition filed in Oklahoma State District Court in and for Pittsburg County seeks as amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), therefore, the amount in controversy is proper for Removal to this Court. (See Petition, Exhibit "A").

"The amount in controversy is ordinarily determined by the allegations of the Complaint, or, where they are not dispositive, by the allegations in the notice of removal." See Laughlin v. Kmart Corp., 50 F.3d 871, 873 (10th Cir.), cert. Denied, 516 U.S. 863 (1995).
3. This Court has original jurisdiction pursuant to 28 U.S.C. Section 1332, as the amount in

controversy as pled in Plaintiff's Petition is greater than Seventy-Five Thousand Dollars (\$75,000.00) and complete diversity of citizenship exists between the parties, as Plaintiff is a resident of Pittsburg County, State of Oklahoma and Defendant is a corporation based in Illinois and conducts business in Oklahoma.

4. A copy of the Petition, Summons and all other pleadings filed in the state court actions are attached as Exhibit "A", in compliance with LCvR 81.2.
5. Venue is proper as Pittsburg County, Oklahoma is within the jurisdiction of this Court. (See: 28 U.S.C. Section 1441 (a)).

OTHER ISSUES

6. This Notice of Removal is timely filed. (See: 28 U.S.C. Section 1446(b).
7. This Notice of Removal has been served on Plaintiff's counsel. A Notice of Filing Notice of Removal to Federal Court will be filed in Pittsburg County upon the completion of the filing of this Notice of Removal.
8. Pursuant to LCvR 81.2, a copy of the Pittsburg County docket sheet has been attached as Exhibit "B".

CONCLUSION

Because Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, this Court has Jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. Section 1332. Defendant is therefore entitled to remove this case to this Court pursuant to 28 U.S.C. Section 1441.

WHEREFORE, premises considered, Defendant requests that the action now pending before

the Pittsburg County State District Court, Case No. CJ-1012-170, be removed to this Court.

Respectfully submitted,


s/Brandon S. Nichols

Brandon S. Nichols, OBA# 18973

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

On the 13th day of August, 2012, I certify that a true and correct copy of the forgoing Notice of Removal was distributed by the ECF system to the following counsel of record:

Tod S. Mercer
MERCER LAW FIRM, P.C.
500 East Choctaw Ave.
McAlester, OK 74501

s/Brandon S. Nichols

Brandon S. Nichols